



*Prosper is a place where everyone matters.*

**Minutes**  
**Prosper Town Council Meeting**  
Tuesday, April 28, 2020

**Call to Order/ Roll Call.**

The meeting was called to order at 5:54 p.m.

**Council Members Present:**

Mayor Ray Smith  
Mayor Pro-Tem Curry Vogelsang, Jr.  
Deputy Mayor Pro-Tem Jason Dixon  
Councilmember Marcus E. Ray  
Councilmember Craig Andres  
Councilmember Meigs Miller  
Councilmember Jeff Hodges

**Staff Members Present:**

Harlan Jefferson, Town Manager  
Terry Welch, Town Attorney  
Melissa Lee, Town Secretary  
Robyn Battle, Executive Director of Community Services  
Chuck Springer, Executive Director of Administrative Services  
Leigh Johnson, Director of Information Technology  
Betty Pamplin, Finance Director  
Hulon Webb, Engineering Services Director  
January Cook, Purchasing Manager  
Pete Anaya, Assistant Director of Engineering Services – Capital Projects  
John Webb, Development Services Director  
Alex Glushko, Planning Manager  
Stuart Blasingame, Fire Chief  
Dudley Raymond, Director of Parks and Recreation  
Dan Heischman, Assistant Director of Engineering Services

**Invocation, Pledge of Allegiance and Pledge to the Texas Flag.**

Mayor Ray Smith led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

**Announcements of recent and upcoming events.**

The Prosper Community Library and the Prosper Parks and Recreation Department invite the public to participate in virtual storytimes, online exercise classes, photo challenges, and other activities while social distancing. A variety of classes and activities are available for residents who want to stay active and engaged. Visit the Library and Parks and Recreation Facebook pages for more details.

Active Adults are encouraged to sign up for Senior Bingo, Virtual Trivia Time, and other online activities. Subscribe to the Active Adult email group on the Parks & Recreation page of the Town website.

The Town would like to thank several local businesses who have come forward with donations for first responders and Town staff over the past few weeks. Legends Popcorn, Rhea's Mill Baptist Church, Domino's Pizza, Triple G Group, and Embroidery House have donated meals and supplies during the COVID-19 public health emergency. The Town is grateful for these community partners for helping to keep our staff and residents safe.

The Prosper Town Council reminds everyone to stay safe and healthy during the COVID-19 public health emergency by following guidelines for social distancing and doing their part to slow the spread of the virus. Daily updates and information are available on the Town website and social media channels.

Residents are encouraged to participate in the National Day of Prayer on May 7. The annual observance is held on the first Thursday in May, inviting people of all faiths to pray for the nation. Council asked to keep our Town, our state, our nation, and the world in everyone's prayers as we continue to fight the COVID-19 pandemic.

**CONSENT AGENDA:**

**Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda by the request of Council Members or staff.**

- 1. Consider and act upon the minutes from the April 14, 2020, Town Council Meeting. (ML)**
- 3. Consider and act upon Resolution No. 2020-30 authorizing the placement of orders for the purchase of replacement vehicles in FY 2020-2021 to realize current incentives related to said purchase with payment to be made from the Town's Vehicle Equipment and Replacement Fund (VERF) in FY 2020-2021. (BP)**
- 4. Consider and act upon Resolution No. 2020-31 to deny the application of Oncor Electric Delivery Company LLC for approval to amend its distribution cost recovery factor to increase distribution rates within the Town. (BP)**
- 5. Consider and act on Resolution No. 2020-32 repealing Resolution No. 14-04 in regard to Neighborhood Empowerment Zone Number 2. (JW)**
- 6. Consider and act on Ordinance No. 2020-33 amending Article 3.14, "Signs," of Chapter 3, "Building Regulations," of the Code of Ordinances regarding the allowance of changeable electronic message board signs and other illuminated signs for real estate signs in residential areas including definitions, regulations, and restrictions. (JW)**
- 7. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plan or Preliminary Site Plan. (AG)**

Mayor Smith removed Item #2 from the Consent Agenda.

Councilmember Andres had questions on Item #4 regarding the Oncor Electric Delivery Company, LLC denial process, specifically any negative aspects of not agreeing to the rate increase. Finance Director Betty Pamplin responded there were no negative aspects of denying the application and that this was a standard annual process. Town Manager Harlan Jefferson added as part of the coalition, the denial of application is the beginning of the rate negotiation process.

Councilmember Miller had questions on Item #7 regarding the preliminary site plan for Prosper West/Children's Health MOB and the previous site plan presented to Council for this location. Alex Glushko, Planning Manager, discussed the Planning and Zoning Commission approval of the initial preliminary site plan for Prosper West. Adding, as Children's has since acquired a percentage of property, the purpose of this item was to retrofit the proposed medical office building into the preliminary site plan and allow for future TxDOT right-of-way reservation.

After Discussion, Councilmember Ray made a motion and Councilmember Miller seconded the motion to approve Items 1, and 3-7 on the Consent Agenda.

The motion was approved by a vote of 7-0.

**2. Consider and act upon Ordinance No. 2020-29 extending a local state of disaster due to a public health emergency. (RB)**

Robyn Battle, Executive Director of Community Services, presented information on the extension intended to align the Town with the provisions contained in any current or future Executive Orders issued by the Governor regarding the COVID-19 public health emergency. The extension would allow for the Town to remain eligible for any state or federal aid if needed and ability to enforce the Executive Orders issued.

Mayor Smith allowed for citizen comments on this item.

Patrick D. Cochrane, 741 Salt Lake Court, Prosper, spoke in opposition to Item #2, specifically section 7, 8 & 9 of the ordinance. He stated there were several pieces of the Governor's Executive Order GA-18 that lacked local applicability and legal standing.

Nicolle Pala, 961 Whistler Ln., Prosper, spoke in opposition to Item #2. She stated the language in the proposed ordinance was too broad and seemed unconstitutional.

Council discussed the constitutionality of the ordinance, with Town Attorney Terry Welch elaborating on sections 7, 8 & 9.

After discussion, Councilmember Ray made a motion and Councilmember Miller seconded the motion to approve Ordinance No. 2020-29 extending a local state of disaster due to a public health emergency.

The motion was approved by a vote of 7-0.

## **CITIZEN COMMENTS**

Patrick D. Cochrane, 741 Salt Lake Court, Prosper, spoke once again on COVID-19 and the Government's response. He discussed a citizen's right to travel and stay-at-home mandates that are creating job losses. He stated local governments should not have the power to shutter non-essential business in the interest of public health.

Kristi Thompson, 2620 Winding Creek Rd., Prosper, spoke on the state of the government and devastation the virus is having. She yielded her remaining time to Patrick Cochrane.

Patrick D Cochrane, 741 Salt Lake Court, Prosper, spoke on testing efforts, reliable data, and an infectious mortality rate in line with seasonal flu. He concluded, it is not the government's job to make health decisions for the broader population, that the decisions are not based on reliable data.

## **REGULAR AGENDA:**

### **Items for Individual Consideration:**

8. **Consider and act upon Ordinance No. 2020-34 of the Town of Prosper, Texas amending Chapter 13, "Utilities," of the Town's code of ordinances, by adding thereto a new Section 13.07.009, "No Penalties or Disconnections During Coronavirus Public Health Emergency; and Creation of Coronavirus Disaster Economic Relief Fund" and authorizing the Town Manager to enter into a Memorandum of Understanding with Cornerstone Assistance Network of North Central Texas. (CS)**

Chuck Springer, Executive Director of Administrative Services, provided an overview of the ordinance that provides a waiver of utility charges for up to two months in a 12-month period, expiring May 1, 2021, with a maximum total waiver of \$25,000. He discussed the Memorandum of Understanding with Cornerstone Assistance Network of North Central Texas and, under this agreement, would screen applications for assistance and recommend which residential utility customers should receive the waiver of charges.

Mayor Smith had questions on the language used within the ordinance and the MOU with Cornerstone Assistance Network. Town Attorney Welch discussed specifics of the ordinance, noting it provides authority for both programs, and Cornerstone Network Assistance activity under the MOU.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion, and Councilmember Ray seconded the motion to approve Ordinance No. 2020-34 amending Chapter 13, "Utilities," of the Town's code of ordinances, by adding thereto a new Section 13.07.009, "No Penalties or Disconnections During Coronavirus Public Health Emergency; and Creation of Coronavirus Disaster Economic Relief Fund" and authorizing the Town Manager to enter into a Memorandum of Understanding with Cornerstone Assistance Network of North Central Texas.

The motion was approved by a vote of 7-0.

**9. Conduct a Public Hearing, and consider and act upon Ordinance No. 2020-35 amending Special Purpose Sign District-5 (SPSD-5), regarding Unified Development and Monument Sign regulations, in Windsong Ranch Marketplace, located on the northeast corner of US 380 and Gee Road. (AG)**

Alex Glushko, Planning Manager, discussed the sign relocation in Windsong Ranch Marketplace due to TxDOT right-of-way acquisition. Council had questions on similar situations in the future and impact on businesses, and staff discussed the applicant process and issue of potential right-of-way-needs for TxDOT regarding new applicants.

Mayor Smith Opened the Public Hearing.

Tommy Reynolds, the applicant with Comet Signs, 2703 W. Mockingbird Lane, Dallas, spoke in favor of the item.

With no one else speaking, Mayor Smith closed the Public Hearing.

Councilmember Miller made a motion and Councilmember Hodges seconded the motion to approve Ordinance 2020-35 amending Special Purpose Sign District-5 (SPSD-5), regarding Unified Development and Monument Sign regulations, in Windsong Ranch Marketplace, located on the northeast corner of US 380 and Gee Road.

The motion was approved by a vote of 7-0.

**10. Consider and act upon awarding CSP No. 2020-54-B to Durable Specialties, Inc., related to construction services for the Fishtrap Road and Teel Parkway Traffic Signal project; and authorizing the Town Manager to execute a construction agreement for same. (PA)**

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, provided an overview of CSP No. 2020-54-B, including proposal rankings and cost evaluation. Staff recommended Durable Specialties, Inc. due to the proposal timeline of 90 calendar days, and previously performed work for the Town; in the amount of \$286,225.00 without IT fiber conduit.

Councilmember Ray had questions on the type of conduit used and associated costs. Staff provided information on engineering standards regarding conduits and new moisture conditioning guidelines for conduit placement in areas with poor soil.

After discussion, Councilmember Ray made a motion, to include extraction of the conduit component, and Councilmember Andres seconded the motion to approve awarding CSP No. 2020-54-B to Durable Specialties, Inc., related to construction services for the Fishtrap Road and Teel Parkway Traffic Signal project; and authorizing the Town Manager to execute a construction agreement for same.

The motion was approved by a vote of 7-0.

**11. Consider and act upon awarding Bid No. 2020-41-B to McMahon Contracting LP, related to construction services for the Victory Way project; and authorizing the Town Manager to execute a construction agreement for same. (PA)**

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, provided an overview of Bid No. 2020-41-B including location and bid submission. Staff recommended McMahon Contracting LP for the best value of \$1,991,404.25 with an alternate bid consisting of five (5) 9' x 8' drainage culverts and no IT fiber conduit installation; with 130 days for final completion.

After discussion, Councilmember Miller made a motion and Councilmember Hodges seconded the motion to approve awarding Bid No. 2020-41-B to McMahon Contracting LP, related to construction services for the Victory Way project; and authorizing the Town Manager to execute a construction agreement for same.

The motion was approved by a vote of 7-0.

- 12. Consider and act upon awarding Section 1 of Bid No. 2020-40-B to Reliable Paving, Inc., related to construction services for the Coit Road and US 380 SB Right Turn Lane project; and authorizing the Town Manager to execute a construction agreement for same. (PA)**

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, provided an overview of Bid No. 2020-40-B including location and bid submission. Staff recommended awarding Section 1 to Reliable Paving, Inc. for \$114,450.46.

After discussion, Councilmember Hodges made a motion, and Councilmember Andres seconded the motion to approve awarding Section 1 of Bid No. 2020-40-B to Reliable Paving, Inc., related to construction services for the Coit Road and US 380 SB Right Turn Lane project; and authorizing the Town Manager to execute a construction agreement for same.

The motion was approved by a vote of 7-0.

- 13. Consider and act upon Ordinance No. 2020-36 amending Ordinance No. 19-65 (FY 2019-2020 Budget) and Capital Improvement Plan. (BP)**

Betty Pamplin, Finance Director, provided information on the Budget and CIP amendment for two traffic signals. The first, located at Fistrap and Teel Parkway, with an adopted budget of \$250,000 and requesting to increase the budget to \$400,000. The second, located at Coit and Richland, with an adopted budget of \$250,000 and requesting to increase the budget to \$410,000. She added both traffic signals were funded from impact fees from thoroughfares.

After discussion, Councilmember Miller made a motion, and Mayor Pro-Tem Vogelsang seconded the motion to approve Ordinance No. 2020-36 amending Ordinance No. 19-65 (FY 2019-2020 Budget) and Capital Improvement Plan.

The motion was approved by a vote of 7-0.

- 14. Consider and act upon a request to waive the Town's Drainage System Design Requirements for a wet or underground detention pond for the detention pond on the Rhea Mill's Baptist Church Tract with new expansion. (DH)**

Dan Heischman, Assistant Director of Engineering Services, provided an overview of the property, and spoke on the Rhea Mill's Baptist Church building plans for expansion

to the south to include additional fire lanes and a parking lot. He noted the drainage requirements are for new improvements only.

Councilmember Ray had questions on wet detention systems in comparison to dry detention systems, and was concerned with the aesthetics of each.

The applicant, Kelly Morgan with Nelson + Morgan Architects, Inc., spoke on the location of pond, toward back of property, and there being no need for wet detention.

Jared Myer, Executive Pastor for Rhea Mill's Church, commented on the number of existing lakes in the area, and their intention to use the property for church events.

After discussion, Councilmember Ray made a motion, and Deputy Mayor Pro-Tem Dixon seconded the motion, to approve the request to waive the Town's Drainage System Design Requirements for a wet or underground detention pond for the detention pond on the Rhea Mill's Baptist Church Tract with new expansion.

The motion was approved by a vote of 7-0.

**15. Consider and Act upon on approving the Preferred Downtown Scenario and the Town Hall Open Space Master Plan. (DR)**

Dudley Raymond, Director of Parks and Recreation, provided an overview of the Council Briefing held on September 24, 2019, the Community Meeting held on January 8, 2020, and on the Preferred Downtown Open Space Scenario 1 and 2. Additionally, he discussed the phasing plan, noting more work would need to be done before going under construction.

Mark Bowers, with Kimley-Horn and Associates, Inc., provided information on feedback received from the Council briefing held on September 24, 2019 and Community Meeting held on January 8, 2020. Detail on greenspace use, walkability, and the phasing plan was provided.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion, and Mayor Pro-Tem Vogelsang seconded the motion, to table the Preferred Downtown Scenario and the Town Hall Open Space Master Plan indefinitely, with the motion to reflect the will of council as preferred option.

The motion was approved by a vote of 7-0.

**EXECUTIVE SESSION:**

**Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:**

***Section 551.087 – To discuss and consider economic development incentives.***

***Section 551.072 – To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.***

***Section 551.071 - Consultation with the Town Attorney regarding legal issues associated with the Town's sign ordinance, and all matters incident and related thereto.***

**Section 551-074 - To discuss and consider personnel matters and all matters incident and related thereto.**

**Section 551.074 - To discuss and review the Town Manager's performance evaluation.**

The Town Council recessed into Executive Session at 8:47 p.m.

**Reconvene in Regular Session and take any action necessary as a result of the Closed Session.**

The Town Council reconvened the Regular Session at 9:09 p.m.

**Possibly direct Town staff to schedule topic(s) for discussion at a future meeting**

There were no topics discussed.

**Adjourn.**

The meeting was adjourned at 9:10 p.m. on Tuesday, April 28, 2020.

These minutes approved on the 12<sup>th</sup> day of May 2020.

**APPROVED:**

  
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Ray Smith, Mayor

**ATTEST:**

  
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Melissa Lee, Town Secretary

